IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 155 of 1996

Between:

Kasireddi Kasulu S/o.Kondayya
Kattubolu Village Rambilli Mandal
Visakhapatnam Dist

..... PETITIONER

AND

Mandal Revenue Officer Rambilli P.O.
Visakhapatnam Dist

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of mandamus declaring the action of the respondent in unilaterally declaring the petitioner's tiled cattle shed with surrounding site measuring 21 1/2 yards from North to South and 21 yards from East to West, situated in Sy.No.303 of Kattubolu village, Rambilli Mandal, Visakhapatnam District as Government land by affixing a notice Dt.7/1/1996 and trespassers will be prosecuted, as being illegal, unjust, high handed, arbitrary and violative of Articles 14 and 19 of the Constitution of India and pass such other order.

Counsel for the Petitioner: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Mandamus to declare the action of the respondent in unilaterally declaring the tiled cattle shed and the surrounding site admeasuring 21 ½ yards from North to South and 21 yards from East to West situated in Sy.No.303 of Kattubolu Village, Rambilli Mandal of Visakhapatnam District, owned by the petitioner, as illegal and arbitrary.

It is the case of the petitioner that he is the owner and possessor of the cattle shed and the surrounding site, which is located in said survey number and the same was purchased by his ancestors. While so, on 07.01.1996 the respondent-Mandal Revenue Officer has affixed a notice on the said cattle shed declaring that it is a government property. It is stated in the affidavit, filed in support of the writ petition, that the said action of the respondent is not preceded by any notice or enquiry.

Though the writ petition is of the year 1996, no counter-affidavit is filed disputing the averments made in the affidavit, filed in support of the writ petition. From a reading of the impugned notice, it is clear that it merely declares the property in question as a government property and there is no indication of giving any prior notice and opportunity to the petitioner.

In that view of the matter, the writ petition is allowed and the impugned notice is set-aside. However, this will not preclude the respondent in following the procedure, if it is a government property, to evict the petitioner from the land in question in accordance with the provisions of the A.P. Land Encroachment Act and Rules framed thereunder.

Accordingly, the writ petition is allowed. No order as to costs.

_____ R.SUBHASH REDDY, J

22.02.2005

DR

That Rule nisi has been made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this the Tuesday, the twenty second day of February, Two thousand and five.

To

1. Mandal Revenue Officer Rambilli P.O.
   Visakhapatnam Dist

2. 2 CCs to Government Pleader for Revenue, High

Court Buildings, Hyderbad. (OUT)

3. 2 CD copies